S.B.CRIMINAL MISC. PETITION NO.1325/2006
(Abdul Waheed Vs. State of Raj. & Anr.)

Date of order : : 29.05.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Nazir Ahmed for
Mr.M.A.Siddiqui, for the petitioner.
Mr.Ashok Upadhyay, PP for the State.
Mr.Sunil Mehta, for the respondent No.2.

Heard learned counsel for the petitioner as well as learned Public Prosecutor and learned counsel for the respondent.

It is stated that defence evidence was closed on 25.8.2006. Learned counsel for the petitioner states that in the interest of justice, accused-petitioner may be given one more chance to lead his evidence.

Learned Public Prosecutor and learned counsel for the respondent states that trial court had granted sufficient opportunity to the accused to lead his evidence but he failed to do so. It is stated that trial court has rightly closed the defence

evidence.

I have considered the arguments advanced by learned counsel for the parties and also gone through the record of the case. It appears that first time, the case was listed for defence evidence on 17.2.2006. Thereafter, the matter was fixed for 24.3.2006 and on that day, the accused-petitioner sought time to produce his evidence. On 12.5.2006, the Presiding Officer was not their and therefore, the case was posted for 23.6.2006. On that day, the petitioner was granted exemption of personal appearance on the ground of illness and case was ordered to be listed on 29.7.2006. On 29.7.2006, the matter was placed before Lok Adalat but could not be settled and again it was listed in the Court on 17.8.2006. But on 17.8.2006, the advocates are on strike, therefore, work could not be done on that day and it was fixed for 25.8.2006. Learned trial court on 25.8.2006 has closed the defence evidence. Looking to all the facts and circumstances of the case and in the interest of justice, accused should have been granted one more opportunity to lead his evidence.

According, this misc. petition is allowed and the order

dated 25.8.2006 passed by learned Judicial Magistrate, Makarana is set aside. Accused-petitioner may produce his evidence before the trial court on 25.6.2007. Both the parties are directed to appear before the trial court on 25.6.2007. If no evidence is lead in the trial court on the date fixed, no further chance will be granted to the accused in this regard.

(KRISHAN KUMAR ACHARYA), J.

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